

**REMARKS**

Upon entry of the instant Amendment, Claims 1-16 are pending. Claims 1, 5, 9, and 14 have been amended, and claim 16 has been added, to more particularly point out Applicants' invention. The figures were objected to because in FIG. 4, block 308 was indicated to have the N and Y branches mislabeled. The figures have been amended to correct the branch labeling. No new matter has been added.

Claims 9-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Guy et al., U.S. Patent No. 5,940,479 ("Guy"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Guy.

As discussed in the Specification, conventional systems employing jitter buffers can disadvantageously mismatch the size of the jitter buffer and the length of data packets. As such, the present invention provides for adjusting the size of the packets to better match the buffer. That is, the actual packets themselves are adjusted. Thus, claim 9 has been amended to recite "wherein each of said plurality of endpoints includes a jitter buffer controller configured to adjust a packet size of packets being input to said jitter buffer for communication over said packet network;" and claim 14 has been amended to recite a controller coupled to the codec, the jitter buffer, and the packetizer, wherein the controller is configured to cause the packetizer to adjust a packet size if said packet size is related to a jitter buffer size according to predetermined criteria, such that packets received at said jitter buffer are of a new size."

In contrast, as discussed in response to the previous Official Action, Guy appears instead to merely adjust the size of the jitter buffer, not the packets. Applicants respectfully disagree that adjusting a jitter buffer size is either implicitly or inherently the same as adjusting the packet. Indeed, the passage cited in the Official Action (i.e., that "the voice enhancement unit 320 recreates the late packet") is not to the contrary. The

passage merely indicates that a new packet is generated to replace a lost packet. The lost packet and its recreation is presumably the same size as the rest of the packets. Thus, Guy appears to make no mention whatsoever, explicitly or inherently, that the packet size is ever adjusted. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 1-8 were rejected under 35 U.S.C. 103 as being unpatentable over Guy. Like the claims discussed above, these claims also relate to adjusting a packet size for packets input to a jitter buffer. Thus, Claims 1 and 5 have been amended to recite "adjusting a length of said one or more information packets for input to said jitter buffer based on a size of said jitter buffer."

As noted above, and as acknowledged in the Official Action, Guy does not teach adjusting a length of a packet based on a jitter buffer size. Guy merely indicates that data can be formatted into a LAN-compatible format, e.g., Ethernet or token ring. (See Col. 10, line 62.). This, however, relates simply to putting data out onto the network and has nothing whatsoever to do with adjusting a packet size responsive to the jitter buffer. Moreover, Guy notes that the size of the buffer is dependent upon variation in packet delay and contains no hint that packet size related to the jitter buffer size is or can be an issue.

Finally, the Official Action asserts that allegedly adjusting a rate of a bit stream and adjusting the jitter buffer size "relates to 'adjusting a length of the packet based on the size of said buffer.'" Since it appears that the only indication in the current proceedings related to adjusting a packet size responsive to a jitter buffer size comes from Applicants' own teaching, Applicants respectfully submit that this assertion in the Official Action smacks of hindsight use of applicants' own invention to form the basis of the rejection. Because there appears to be no teaching in Guy concerning adjusting a packet size responsive to a jitter buffer size, Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 10-12 were rejected under 35 U.S.C. 103 as being unpatentable over

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Guy in view of Databeam H.323 Primer ("Databeam"). Guy has been discussed above. Databeam is relied on merely for teaching an H.323 system. However, like Guy, Databeam does not relate to adjusting a packet size to match a jitter buffer. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

For reasons similar to those discussed above, newly added claim 16 is likewise believed allowable.

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

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# Annotated Sheet showing changes

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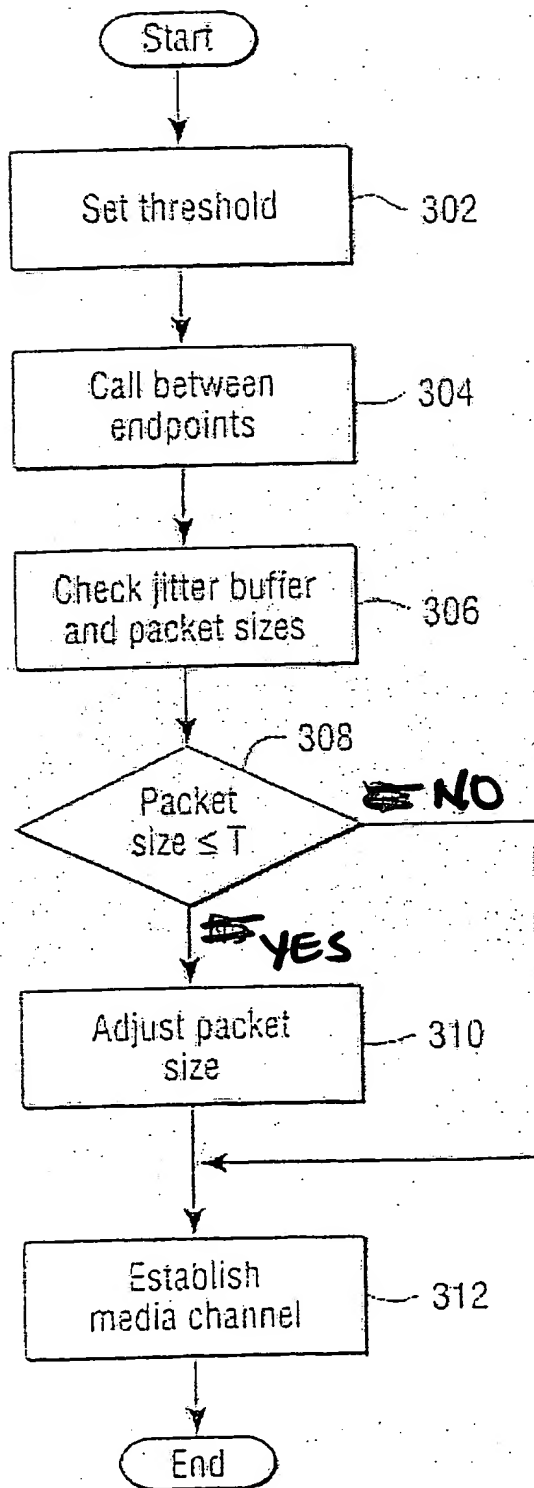


FIG. 4